DOCKET FILE COPY ORIGINAL

April 29, 1998

Office of the Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: MM Docket No. 97-182

RECEIVED

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PEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Secretary:

I would like to thank you for the opportunity to comment on the petition filed by the National Audubon Society on the need for an Environmental Impact Statement regarding the proposed preemption of state and local land use and zoning regulations during the placement of television, radio, or other communications towers.

Enclosed you will find a petition signed by attendees of the 1998 North American Ornithological Conference in St. Louis, Missouri, held April 6-12, 1998. During this conference four of the largest professional ornithological groups met to discuss the latest issues in the field of ornithology. The four groups are as follows: American Ornithologists Union, Cooper Ornithological Society, Wilson Ornithological Society, and the Association of Field Ornithologists. Each of these professional organizations passed a resolution (see enclosed) addressing the threat televison and radio towers present to migrating birds.

I bring this to your attention solely for the reason that the FCC has asked for information regarding, "whether the proposal contained in the Notice of Proposed Rulemaking would have significant environmental effect such that an EIS should be prepared; and second, what would be the environmental effect of the proposal." Given that several hundred individuals and four premier ornithological organizations have deemed the proposed rulemaking a threat to bird populations, I thought it would be valuable for the FCC to have this information. The proposed rulemaking will, by preempting many state and local zoning and environmental laws, have a significant impact by adversely affecting bird populations.

Please take the enclosed petition and resolution into consideration during your proceedings.

Thank you for the opportunity to comment.

Most Sincerely,

Greg Clouser

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#### COMMUNICATION TOWERS AND AVIAN MORTALITY

WHEREAS an estimated two million to four million birds are killed in collisions with communication towers, particularly those higher than 200 feet, in eastern North America alone each year, and

WHEREAS towers 200 feet and taller are required to be lit for aircraft safety, generally with blinking lights, and

WHEREAS birds migrating at night are attracted by the light and circle the tower striking supporting guy wires; and

WHEREAS there are presently at least 75,000 towers above 200 feet tall in the U.S. (according to the Federal Aviation Administration) and another 100,000 are expected to be constructed in the next decade (according to the communications industry) due to expansion in various communications markets, and to accommodate digital TV;

WHEREAS the accrued impact of thousands of towers on migrant songbird populations may be significant for declining species such as Cerulean Warblers and endangered species such as Kirtland's Warbler,

THEREFORE BE IT RESOLVED that the [organization] urges the Federal Aviation Administration (FAA) to endorse studies involving experiments toward finding lighting systems for towers that reduce avian mortality.

BE IT FURTHER RESOLVED that the [organization] encourages the communications industry to voluntarily reduce the number of new towers by co-locating new transmitters on existing towers and to work with the U.S. Fish & Wildlife Service (USFWS) to minimize collisions of birds with towers;

and be it further RESOLVED that the [organization] strongly encourages the U.S. Fish & Wildlife Service to work with the FAA and the Federal Communications Commission to study the magnitude of the problem, including through preparation of an Environmental Impact Statement, and to develop a national plan to minimize collisions of birds with towers.

#### Citations

Cochran, William W. 1959. Attraction of nocturnal migrants by lights on a television tower. Wilson Bulletin 70:378-380.

Kemper, Charles. 1996. A Study of Bird Mortality at as West Central Wisconsin TV Tower from 1957-1995. Passenger Pigeon, 58: 219-235.

Larkin, Ronald P. 1988. Cicular paths of birds flying near a broadcast

tower in cloud. Journal of Comparative Psychology, 102:90-93.

Ogden, Lesley P. 1996. Collision course: the hazards of lighted structures and windows to migrating birds. World Wildlife Fund Canada and the Fatal Lights Awareness Program, 46 pp.

# <u>Declaration of Concerned Ornithologists</u> <u>Regarding the FCC's Proposal to Preempt State and Local</u> <u>Land Use and Zoning Ordinances</u>

Whereas the Federal Communications Commission is seeking public response to the Notice of Proposed Rulemaking (FCC No. 97-296, MM Docket No. 97-182);

Whereas the Federal Communications Commission (FCC) is seeking public response to National Audubon's petition for an Environmental Impact Statement;

Whereas the FCC seeks information "...as to first, whether the proposal contained in the Notice of Proposed Rule Making would have a significant environmental effect such that an EIS should be prepared; and second, what would be the environmental effect of the proposal";

We, the undersigned, hereby declare that the proposal contained in the Notice of Proposed Rule Making will have a significant environmental impact as evidenced in the numerous recorded instances of bird kills associated with the placement of television and radio towers in the flight paths of migratory birds.

Furthermore, we the undersigned declare that the preemption of state and local land use and zoning ordinances will exacerbate the problem of bird kills at radio and television towers due to the lack of consideration of the environmental effects of said towers on migratory birds.

We hereby request that the Federal Communications Commission begin an Environmental Impact Statement as requested by the National Audubon Society to fully explore the effects of the proposal announced by the Notice of Proposed Rule Making on migratory birds and their habitats.

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Chris Eberly  Chew Spencer  Elisabeth Springbrus  Varial Stee  Midrael Roedel  Lee Schoen  Paiga Warren Palle  Fred wann  Peng Chai  Jim Kowslsky  Fred Banmaartan  Williams Rown  Williams Rown  Link & Brown  Sorry Lingula  Link & Brown  Sorry Lingula  Link & Brown  Sorry Lingula  Link Rown  Link Rown  Sorry Lingula  Link Rown  Link Rown  Sorry Lingula  Link Rown  Sorry Link  Sorry Link  Link Rown  Sorry Link  Sorry Link  Link Rown  Sorry Link  Sorry Link	School of Fred Resources 1864 Arrens, 64 2002  Uninell Sch Evert Resources 1864 Arrens, 64 2002  8325 Trap Rd. Hamber Sormer, MI 49740  NC State Mineum Relief NC  300 Orlando Ave, Nashville, TN 37206  715 1/2 Hawlist. Howton 7X 77000  141 Pattizon Letos, Foo. Oct. Univ. 1845  1501 S. 44 442 Marco TX  2317 Cyptass Pt. E. Austr TX 78746  2200 Parkers Austra TX 78703  915 NE 144 Are langualle Pt 32601  2114NE 90 th Ave i Vancouver unt  514 Olinda Road Makawao, HI 9678  93 W. Cermall Rd. Sharon CT 06069  NCR61 Par 1618 Chear Create NO 2566  30 Saybrook Pt. Buttale 11 14209  7800 Parkers Australia Marco Languar
She feather Stephen Brown Pete Stellenheim	4449 Lotus St. San Diego, CA 92107

Name Print and Syn 1 A	ddress
Jeffrey S. Marks Jelly & Many	1533 Van Buren St. Missoula MT 59800
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Carol Vical	3PIR Phoenix SF Ama 14 50011
Speklas Colles & Elm Collex	7.050 White Come Was my et of 1406
Jean Cohn	1787 Blaumont Do Lamesa CA 9194
THOM'S KWIGHT The	1745 ROSEMARY ST. DENVER CO 80220
Ruth Russell Kuthlusice	2850 Veaming de Ocste Tucson AZ 85745
Glen E. Workondon Has likely of	Archbok Bio Sts, Venus F1 37960
lan worltender and colle o	- Archbolt Bu Stalknos FL 33960
Richard C Banks Rehade Ont	NOTES CENTRAL PROPERTY GETTE
	3261 Civile Hill Ry Alar VAZZESS
Gladys Chanks Olafac Broke	3201 Cerld Sile Re Aly da 2 90
Ball and Street	1323 Cathedral aux, washington DC 20016
Amy Drishell ship Intell	3418 29th St. Washington, D.C. 20008
Keeth Garker	5468 S. Wordlawn Chicago Il COC 15
Te meta	5519 S. Everett ANTHOS (Licage IL BESY
Thomas & B. Huslo Hammer & Flood	134 Bran H.11 Rd. Dyle, 19 13053
Way T LOUISTRE	3 25 E Lagrue St. Tucson A 28576

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Name Front + Dign	Address
Peter Gredenel Peter Freduk	14324 SW 79th St Archer F1.32618
H.T. Hendrickson W.J. Heren Okra	Deat Burlow, UNG Granton, NC 27412,
William Ramay	Biday Ded Nortich Unw, Northfuld
Sandra van higger	1200 Storlemme Nevel Dry At / AZ Stor V
Grandler & Robbis	7902 Broddyn Br. Rol Laurel NO. 20707
Tom Haggerty	Bidog Dent Un. J. N. alabama, Florence,
Peter South	18346 Pace of Home wood IL 60430
Contlya Carr	700 Angusta Boulle Co 50301
sette Soull Bette Loiselle	7273 Cornell Ave St. Louis, MO 63130
Charles R. Brown Charles R Psonon	1405 E Concord St., Brulon Avow, OK. 74012
ERWIN E. KLAAS Sowin & Klass	
DIRK BURHANS Der Butan	1405 Grand Ave, Ames, IA 50010 2513 LILY CT. COWNERS NO 65202
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• ATTENDED TO THE PROPERTY OF	
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Name - Sign + Print Ad	ldress
R.J. Gutierra July	4787 Beaumont Dr. La Mesa, CA 9194,
R.J. Gutierra July	539 Old Roundhouse Rd, Field brook, CA
R. E. GILL ROUM	30/4 ANIX AVS ANCH, At 995 175519
V. Piaskowski Vicki Peaskowski	25MC 1420 N. Water St. Milwaukee 53202
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Strehase Patter Michael Caller	215 cows valle # 11 Starkulle ms 39759
Steplen W. Hoffman. Hoffman	Dept. Bulony, Vinix. Cal. F. Riverside CA 92521
Jan BBet	Harkbath I t'l. Po Box 660 Sult
TO DIVINO AL	Dipt of Animal Ecology, Lowa state Univ. City
Gray Kaster ANDY KRATTER FLMNH	Univ of Thinois 606 & Healey Charges 84110 VNIV Florida, Gaines, the FL 32611 FLG 1801
on aini Bed	
Paul Bairily	HUMBOLDT STATE UNIV. Arcuta CO
	P.U. Box 404 Oron Hill MD 20780 45519
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Every tranks	8495 ND 1250Th Rd Olchester, IL 62326
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Shallow Other Burson	POBox 467 Healy, At 49743
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Com de el Danne INGOLD	BIOLOGY Dept. Mulkingum College LEW Concres OM
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Name Sign and Print	Address
Helen Helmut Mueller- Mun Muller NANCY, MUELLER Edward & Burth Mary H. Clence	U.N.C. Chape (Hill, NC 27599-328 Chape (Hill NC 27576 Haden CH 43003 3942 NW 42 Ct. Garries villa, F132606